

**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2012-11

**Legistar #:** 20120141

**City Council Hearing:** Wednesday, August 8, 2012; Council Chambers – 7:00 p.m.

**Applicant:** Roy W. Mertz  
3076 Vicksburg Drive  
Lawrenceville, GA 30044

**Property Owner:** RM KID ONE, LLC  
% Diplomat Companies  
2100 Parklake Drive  
Suite A  
Atlanta, GA 30345

**Address:** 2265 Kingston Court 200

**Land Lot:** 07260      **District:** 17      **Parcel:** 0010

**Council Ward:** 7      **Existing Zoning:** OHR (Office High Rise)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to allow abandoned signs to remain. [Section 714.06 (13)]

**Statement of Fact**

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**

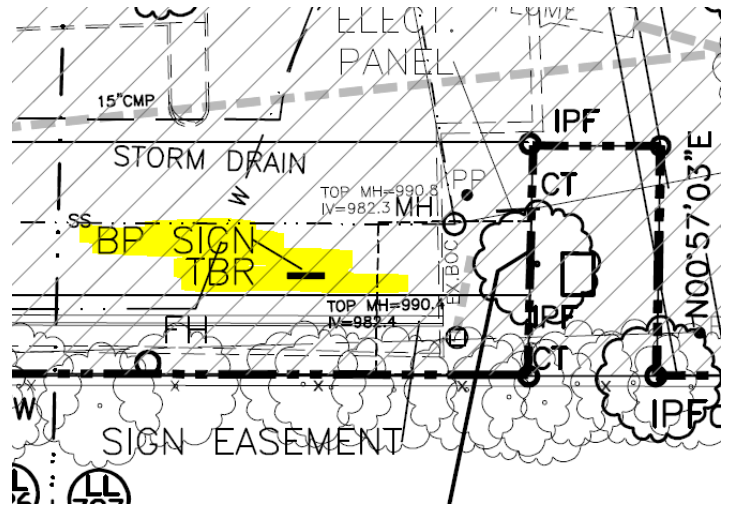


**2265 Kingston Court 100 and 200**





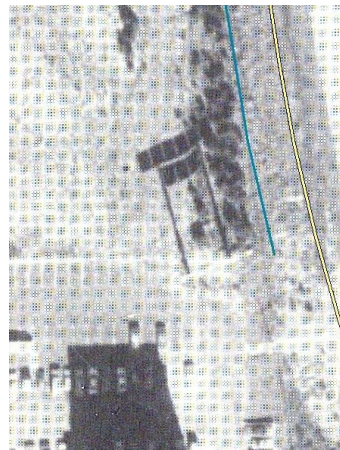
Sign #1



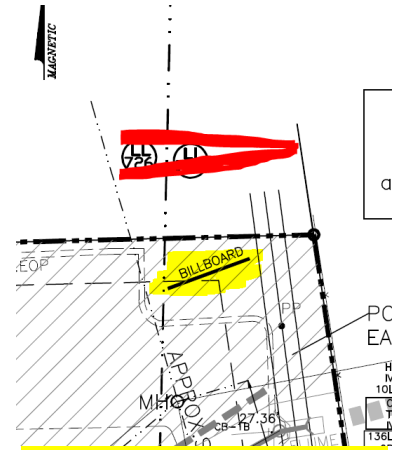
Sign #1 – Plans on file at City



Sign #2 (on right)



Sign #2 – 1974 Aerial Image



Sign #2 highlighted yellow.  
Full-size billboard on adjacent property



Sign #3 - Photo



Sign #3 - Aerial

### **Staff Analysis:**

Roy Mertz, petitioner for the owner, is requesting a variance for 2265 Kingston Court 200 to allow two abandoned signs and one off-premise abandoned sign remain. The property is zoned Office High Rise (OHR) and contains a seven story building previously used as a Holiday Inn hotel but has been vacant since a 2006 fire.

At issue are the three abandoned nonconforming signs for the property. The Sign Ordinance defines abandoned signs as *“any permitted sign or sign structure which was erected on a premises in conjunction with a particular use which has been discontinued for a period of 30 days or more...”* The subject property contains two abandoned signs; an off-site directional sign is located approximately 1,000 feet away at the northeast corner of Kingston Court and Franklin Road. There has not been an active business license on this property since 2009.

### **Sign #1**

The first sign is located in the southern portion of the property along the Delk Road frontage. This is a high-rise sign formerly used as an off premise sign for a nearby BP service station (and never used by Holiday Inn), which was intended for drivers on Interstate 75 and is nonconforming with respect to design (pylon), height, and size. Based on past permit history (02-50000412), the sign is approximately 120 feet tall and contains a 12’x12’ sign face (144 s.f.). The maximum height for a freestanding sign on an arterial roadway is limited to 15’ and the maximum sign face area is limited to 90 s.f. Plans submitted to the city for various issues and permits (exemption plats, construction plans, Special Land Use applications) state that this sign would be removed during construction. However, at this time construction has not commenced.

### **Sign #2**

This sign is located at the northeastern corner of the property along the I-75 frontage. Staff has been unable to find any permit history for the sign that may indicate its size or height. However, the shadow pattern from a 1974 aerial image indicates the sign’s existence at that time. Based on a visual assessment the sign appears to be nonconforming with respect to design (pylon), height, and size. Although it is identified as a “Billboard” on the submitted plan, the sign does not fit the definition of either an off-premise sign or general advertising sign. Off premise signs are defined as *“Any sign located or proposed to be located at any place other than within the same platted parcel of land on which the specific business or activity being identified on such sign is itself located or conducted.”* General advertising signs are defined as *“A detached sign which has a sign area greater than 250 square feet.”* A true billboard (off-premise general advertising sign) is located just north of Sign #2 on the adjacent property, and is visible in the picture on the previous page.

### **Sign #3**

The third abandoned sign is located at the northeastern corner of the intersection of Franklin Road and Kingston Court, on the property located at 1175 Franklin Road. A permit submitted in 1995 for panel replacements for a monument sign located at the southwestern corner of 2265 Kingston Court included information on Sign #3. Sign #3, referred as a “Custom Directional Sign” for Holiday Inn, was shown to contain two sign cabinets (4’x4’ and a 2’x4’). No information was provided for the pole or overall height of the sign. At that time, the staff reviewer questioned whether the sign was in the right of way, and would not grant a permit.

However, later surveys conducted by the City indicate that the sign not located in the right-of-way, but on the property located on 1175 Franklin Road. Based on this information the sign appears to be nonconforming with respect to design (pylon), height, size and location (off-premise). The sign, previously used and abandoned by Holiday Inn, is now being used to advertise leasable office space.

### **Property History**

The Board of Zoning Appeals approved a variance (V2009-03) in February 2009 to reduce the minimum lot size for OHR from two acres to one acre so the subject property and adjacent property, which were once combined, could be legally separated. In August 2009 City Council approved a Special Land Use Permit (SLUP) for an extended stay facility at this location. The SLUP approval included numerous variances and stipulations.

*A building permit to renovate the hotel and convert it to a Candlewood Suites extended stay hotel was applied for on June 30, 2009 per BP 09-2086. However, records indicate that the Fire Department and Business License Department never approved the permit. Therefore, the permit has never been issued. Due to the amount of time that has elapsed, new plans meeting current building codes would have to be resubmitted prior to the issuance of a permit.*

*Staff has confirmed that this high-rise sign was formerly used as an off-premise sign for a nearby BP service station, and was never used by Holiday Inn.*

***\*\*This item was tabled at the March 7, 2012 City Council meeting.\*\****

***\*\*This item was tabled at the April 11, 2012 City Council meeting.\*\****

***\*\*This item was tabled at the May 9, 2012 City Council meeting.\*\****

***\*\* This item was tabled at the June 13, 2012 City Council meeting.\*\****

***\*\*This item was tabled at the July 11, 2012 City Council meeting.\*\****